

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 858 of 2007(B)

PETITIONER:

**MANJOOSHA MATHEW, AMBATTUPOTHYIL HOUSE
THIDANADU P.O., KOTTAYAM DISTRICT.
(U.P.S.A.G.M.H.S. PARATHODU).**

**BY ADV. SRI.GEORGE POONTHOTTAM
SRI.GEORGEKUTTY MATHEW**

RESPONDENTS:

- 1. THE DEPUTY DIRECTOR OF EDUCATION,
COLELCTORATE, KOTTAYAM.**
- 2. THE D.E.O., KANJIRAPILLY,
KOTTAYAM DISTRICT.**
- 3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
D.P.I.OFFICE, POOJAPPURA,
THIRUVANANTHAPURAM.**
- 4. A.N. SABU, MANAGER,
G.M.HIGH SCHOOL PARATHODE, KANJIRAPILLY,
KOTTAYAM DISTRICT.**
- 5. THE HEAD MISTRESS,
G.M. HIGH SCHOOL PARATHODE,
KANJIRAPILLY, KOTTAYAM DISTRICT.**
- 6. SUBI GOPINATH, U.P.S.A.,
G.M. HIGH SCHOOL PARATHODE,
KANJIRAPILLY, KOTTAYAM DISTRICT.**
- 7. SANDHYA P.R., U.P.S.A.,
G.M. HIGH SCHOOL PARATHODE,
KANJIRAPILLY, KOTTAYAM DISTRICT.**
- 8. SINI, U.P.S.A., G.M. HIGH SCHOOL
PARATHODE, KANJIRAPILLY, KOTTAYAM DISTRICT.**

**BY ADV. SRI.KRB.KAIMAL (SR.)
SRI.S.EASWARAN
SRI.P.K.MANOJKUMAR
G.P.SRI.T.T.MUHAMMED**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24/02/07 ALONG WITH W.P.C.NO.5892/07, THE COURT ON THE SAME
DELIVERED THE FOLLOWING:**

APPENDIX IN W.P.C.NO.858/07

PETITIONER'S EXHIBITS

- EXT.P1 TRUE COPY OF THE RECEIPT DATED 26-03-05 ISSUED BY THE FOURTH RESPONDENT TO THE PETITIONER.**
- EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 14-3-06 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.**
- EXT.P3 TRUE COPY OF THE REPRESENTATION DTD. 4-10-06 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**
- EXT.P4 TRUE COPY OF THE REPRESENTATION DATED 22-12-06 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**
- EXT.P5 TRUE COPY OF THE RELEVANT EXTRACT OF THE BYELAW OF THE S.N.D.P. SAKHAYOGAM.**
- EXT.P6 TRUE COPY OF THE CERTIFICATE DTD. 10-11-06 ISSUED BY THE MEDIATORS.**
- EXT.P7 TRUE COPY OF THE APPEAL DTD. 1-2-07 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**
- EXT.P8 TRUE COPY OF THE ORDER DATED 10-1-07 ISSUED BY THE SECOND RESPONDENT APPROVING THE APPOINTMENT OF THE PETITIONER AS DAILY WAGED TEACHER.**
- EXT.P9 TRUE COPY OF THE ENQUIRY REPORT FILED BY R2 TO R1**
- EXT.P10 TRUE COPY OF THE B.ED. DEGREE CERTIFICATE OF THE PETITIONER**
- EXT.P11 TRUE COPY OF THE CERTIFICATE ISSUED BY INSTITUTE OF HUMAN RESOURCES DEVELOPMENT, THIRUVANANTHAPURAM TO THE PETITIONER.**
- EXT.P12 TRUE COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL MODEL POLYTECHNIC TEEKOY TO THE PETITIONER.**

RESPONDENT'S EXHIBITS

- EXT.R4(A) TRUE COPY OF THE LETTER NO.B3/8349/05 FROM R2 TO R4**
- EXT.R4(B) TRUE COPY OF THE COMPLAINT DTD. 28-11-05 FROM ONE SRLSABUKUTTAN TO R5**
- EXT.R4(C) TRUE COPY OF THE COMPLAINT FROM ONE SRLK.R.SHAJI TO R5**
- EXT.R4(D) TRUE COPY OF THE COMPLAINT FROM SHEJIN.T.SEBASTIAN TO R5**
- EXT.R4(E) TRUE COPY OF THE COMPLAINT SUBMITTED BY ASHIKA SHIBU TO R5**
- EXT.R4(F) TRUE COPY OF THE COMPLAINT SUMITTED BY R5 TO R4**
- EXT.R4(G) TRUE COPY OF THE COMPLAINT SUBMITTED BY SRLK.R.CHELLAPPAN NAIR, P.T.A. PRESIDENT TO R5**
- EXT.R4(H) TRUE COPY OF THE ORDER DATED 15-3-06 ISSUED BY R2**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).NOs.858 &5892 OF 2007

Dated this the 24th day of February, 2007

JUDGMENT

Both writ petitions are filed by the same petitioner. The prayer in W.P.C.No.858/07 is to direct respondents 1 to 5 to replace the petitioner in the post of divisional vacancy of U.P.S.A. at G.M.High School, Parathode with retrospective effect from 3-10-05. According to the petitioner, she was appointed, but her appointment was not approved and she was illegally removed by the fourth respondent from the divisional vacancy of U.P.S.A to the post of daily waged teacher.

2. Detailed counter affidavit has been filed by respondents 4 and 5 giving their version in the matter. Along with the counter, they produced Ext.R4(h). In Ext.R4(h) it is stated that the appointment of the petitioner from 3-10-05 is rejected. This order is produced as Ext.P2 in W.P.(C)No.5892/07. Petitioner has also

produced Ext.P3 stated to be an appeal before the Deputy Director in W.P.(C)No.5892/07. Petitioner has also produced Ext.P1 dated 17-02-06 issued by the DEO calling upon the manager to produce certain documents. Apparently, these documents were not produced. According to the petitioner, she received Ext.P2 in W.P.(C)No.5892/07 only when a copy of the counter affidavit filed by respondents 4 and 5 in W.P.(C)No.858/07 is received on 18/01/07.

3. It is pointed out by learned counsel for the petitioner and learned counsel for respondents 4 and 5 that under the KER an order declining approval has to be served on the teacher through the manager. It is pointed out that it is the date of receipt which is relevant for the period of limitation. Apparently in view of the fact that petitioner has purportedly filed an appeal within the time provided as he contends, I feel that a decision should be taken in the matter.

4. Accordingly, these writ petitions are disposed of

directing that first respondent will take up Ext.P3 in W.P.(C)No.5892/07 for consideration and hear the petitioner and respondents 6,7, and 8 in W.P.(C)No.858/07 besides the manager. No doubt, first respondent shall take into consideration the fact that manager has before this court submitted that Ext.P2 order was not served through him earlier. Unless it is found that the appeal is beyond time, first respondent shall take a decision on the merits of Ext.P3 appeal in W.P.(C)No.5892/07 in accordance with law within a period of six weeks from the date of receipt of a copy of this judgment. I leave open all the contentions of the petitioner.

**K.M.JOSEPH
JUDGE**

SV.

